

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. )  
W. A. DREW EDMONDSON, in his capacity as )  
ATTORNEY GENERAL OF THE STATE OF )  
OKLAHOMA and OKLAHOMA SECRETARY )  
OF THE ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the TRUSTEE FOR NATURAL )  
RESOURCES FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

05-CV-0329 TCK-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, INC., )  
AVIAGEN, INC., CAL-MAINE FOODS, INC., )  
CAL-MAINE FARMS, INC., CARGILL, INC., )  
CARGILL TURKEY PRODUCTION, LLC, )  
GEORGE'S, INC., GEORGE'S FARMS, INC., )  
PETERSON FARMS, INC., SIMMONS FOODS, INC., )  
and WILLOW BROOK FOODS, INC., )

Defendants. )

TYSON FOODS, INC., TYSON POULTRY, INC., )  
TYSON CHICKEN, INC., COBB-VANTRESS, INC., )  
GEORGE'S, INC., GEORGE'S FARMS, INC., )  
PETERSON FARMS, INC., SIMMONS FOODS, INC., )  
and WILLOW BROOK FOODS, INC., )

Third Party Plaintiffs, )

vs. )

CITY OF TAHLEQUAH, *et al.*, )

Third Party Defendants )

AFFIDAVIT OF ELIZABETH A. TROTTA

STATE OF OKLAHOMA                     )  
   ) ss.  
COUNTY OF TULSA                     )

Elizabeth A. Trotta, being duly sworn, deposes and says:

1. That I am of legal age and qualified to attest the facts contained herein.
2. That I am currently employed and have been a Paralegal with Joyce, Paul & McDaniel, PLLC ("JPM") since February of 2001.
3. That I am familiar with the document production from *City of Tulsa v. Tyson Foods, Inc., et al.*, Case No. 01-CV-0900 ("*City of Tulsa* lawsuit"), filed in the United States District Court for the Northern District of Oklahoma.
4. That, in response to the State of Oklahoma's May 30, 2006 Set of Requests for Production to Poultry Integrator Defendants, I have reviewed JPM files and records related to document production in the *City of Tulsa* lawsuit.
5. The complete discovery materials from the *City of Tulsa* lawsuit include the following categories of documents, inclusive of Peterson and the other defendants named in that action:
  - (a) Nutrient Management Plans for hundreds of Eucha/Spavinaw ("E/S") poultry growers;
  - (b) Contract and addenda for hundreds of E/S poultry growers;
  - (c) Flock settlement print outs for hundreds of E/S poultry growers;
  - (d) Vaccination and mortality records for hundreds of E/S poultry growers;
  - (e) Poultry house time and temperature records for hundreds of E/S poultry growers;
  - (f) Propane purchase records for hundreds of E/S poultry growers;
  - (g) Flock inspection reports for hundreds of E/S poultry growers;
  - (h) Grower files for hundreds of E/S poultry growers;
  - (i) Depositions of dozens of E/S poultry growers;
  - (j) Policies and procedures for the operation of Peterson's processing plant, including records of the operation of Peterson's wastewater pre-treatment facility;

(k) Communications between Peterson and the City of Decatur, Arkansas relating to wastewater treatment;

(l) Expansive logs of privileged and confidential documents responsive to Tulsa's discovery requests;

(m) Reports, depositions and files of at least five experts covering topics such as, Peterson's wastewater treatment and its "purported" effect of Spavinaw Creek; the operations of Tulsa's Wastewater treatment lagoons at lake Eucha; Tulsa's management of Lake Eucha and Spavinaw; Tulsa's potable water treatment technologies, plants; water quality of streams, groundwater and reservoirs in E/S Watershed; impacts of third-parties identified in the E/S Watershed; criticisms of the Plaintiffs' experts' principles and methodologies; modeling of hydrology and reservoirs in the E/S Watershed; Analysis of Tulsa's claimed taste and odor complaints; maintenance of Tulsa's water distribution system; and

(n) Documents pulled from Tulsa's files relating to the watershed, the lagoons, taste and odor, and water treatment. Documents obtained from the City of Tulsa amount to approximately fifty (50) boxes of documents.

6. That Peterson Farms, Inc. ("Peterson") produced the following documents in the *City of Tulsa* lawsuit:

(a) Corporate documents including Peterson processing plant documents, personnel files from the processing plant, correspondence regarding the Eucha Spavinaw Watershed. The total page count of these documents is approximately 11,314 pages. This production also contains at least 500 pages of documents that relate only to the Peterson processing plant which is not at issue in the lawsuit filed by the Oklahoma Attorney General. JPM has only a small subset of the documents in its offices or possession.

(b) Grower files for sixty-eight (68) growers in or near the Eucha Spavinaw Watershed. Peterson produced approximately 18,408 pages of documents from these growers files. These documents were marked "confidential" and treated accordingly. JPM has only a small subset of these documents in its offices or possession.

(c) Fifteen (15) boxes of documents provided to experts from numerous publicly available sources, various depositions and exhibits thereto, pleadings and reports from the plaintiffs' experts. The volume of documents provided to experts in the *City of Tulsa* lawsuit amounts to approximately 20,000 pages. These documents were copied for each expert individually, and only a list of bates numbers were kept in the JPM offices. JPM has only a small subset of these documents in its offices or

possession. These document sets would have to be recreated in order to produce them to the State of Oklahoma.

(d) Fourteen (14) boxes of documents from third-party sources were collected and produced. The documents were compiled by counsel and obtained from third-parties such as Arkansas and Oklahoma administrative agencies and the United States Environmental Protection Agency, among others. JPM has only a small subset of these documents in its offices or possession.

7. That Peterson made one (1) Initial Disclosure in accordance with Federal Rule of Civil Procedure 26; made three (3) responses to plaintiffs' Interrogatories; and made three (3) responses to plaintiffs' Requests for Production.

8. That four (4) current or former employees of Peterson were deposed during the *City of Tulsa* lawsuit. One of these deposition transcripts contains confidential portions. There are nineteen (19) deposition exhibits to these depositions, with some of those being confidential documents. One of the depositions was of an employee of the Peterson processing plant.

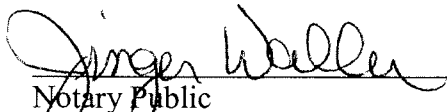
9. That six (6) experts and one (1) private investigator were offered for deposition during the *City of Tulsa* lawsuit. Among the experts deposed were a waste water processing expert whose testimony and opinions were related to the Peterson processing plant and a lake limnologist whose testimony and opinions were specific to Lakes Eucha and Spavinaw. The private investigator's testimony was limited to investigation of campground lagoons at Lake Eucha.

10. As of today's date, JPM has been unable to physically locate all of the documents and categories of documents requested by the State of Oklahoma from the *City of Tulsa* lawsuit.

FURTHER AFFIANT SAYS NOT.

  
Elizabeth A. Trotta

Subscribed and sworn to before me this 11th day of September, 2006.

  
Notary Public

My Commission Expires: \_\_\_\_\_

